

**City of Newport Beach CA  
Tide and Submerged Lands  
DRAFT Annual Report  
For the Year Ended June 30, 2013**

**October 1, 2013**

**TRANSMITTAL**

Honorable Mayor, Members of the City Council, Residents of the City of Newport Beach, and Citizens of the State of California,

I am pleased to present the City of Newport Beach - Tide and Submerged Land (Tidelands) Annual Report. The Tidelands Report is a report for the residents of California, and provides a concise, easy to read document that enables us to highlight information on the City's administration of the Tidelands pursuant to grants from the State of California.

This is a DRAFT report to the California State Lands Commission. Audited financial statements for the City of Newport Beach, CA, for the fiscal year ended June 30, 2013, which include the Tidelands Operating and Harbor Capital funds as Major funds, are not yet complete. Financial values in this report are taken from the most current June 30, 2013 Tidelands financial information. They are subject to revision in the Audited Financial Statements. Once the Audited Financial Statements are complete, this report will be revised to reflect the final values, and resubmitted to the State Lands Commission.

This report only presents information on the financial condition of the Tidelands funds, and does not address the financial condition of the City of Newport Beach, CA as a whole. For more information on the financial condition of the City of Newport Beach, CA please see the City's Comprehensive Annual Financial Report (CAFR), which can be obtained after December 31, 2013, from the Newport Beach Finance Department, 100 Civic Center Drive, Newport Beach, CA 92663-3884. The CAFR can also be viewed on our website, after December 31, 2013, at: [www.NewportBeachCa.gov/CAFR](http://www.NewportBeachCa.gov/CAFR).

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Dan Matusiewicz  
Finance Director

**DISCUSSION AND ANALYSIS**

**Overview**

The Tidelands within the City of Newport Beach are owned by the State of California and overseen by the California State Lands Commission. The City manages and administers the Tidelands illustrated in the map below, pursuant to grants from the State. These granted Tidelands consist primarily of the land bayward of the bulkhead, and portions of the bay beaches in the Lower Bay (Coastward of the Upper Bay Bridge). Newport Beach Tidelands also include large portions of our ocean beaches and land covered by the Pacific Ocean from the shoreline, three miles out to sea.

Additionally, some areas within the Tidelands have been filled in and developed, these are known as filled Tidelands.

The Tidelands depicted below, include illustrated boundary lines between the City's granted Tidelands, non-Tidelands, and Tidelands administered by other agencies. This boundary is complex and established based on an amalgamation of historical information. Our current boundary reflects median high tide lines based on historic surveys, as well as court adjudicated boundaries and negotiated settlements. However, there are still a few areas in Newport Harbor where the boundary is disputed. The City continues to seek resolution in these areas through negotiations with the State and other outside agencies.



## Public Trust Administration

The granted Tidelands must be used for purposes consistent with a public trust. Legislation known as the Beacon Bay Bill, adopted in 1978 requires the City to use Tidelands for purposes in which there is a general statewide interest. These purposes are generally as follows:

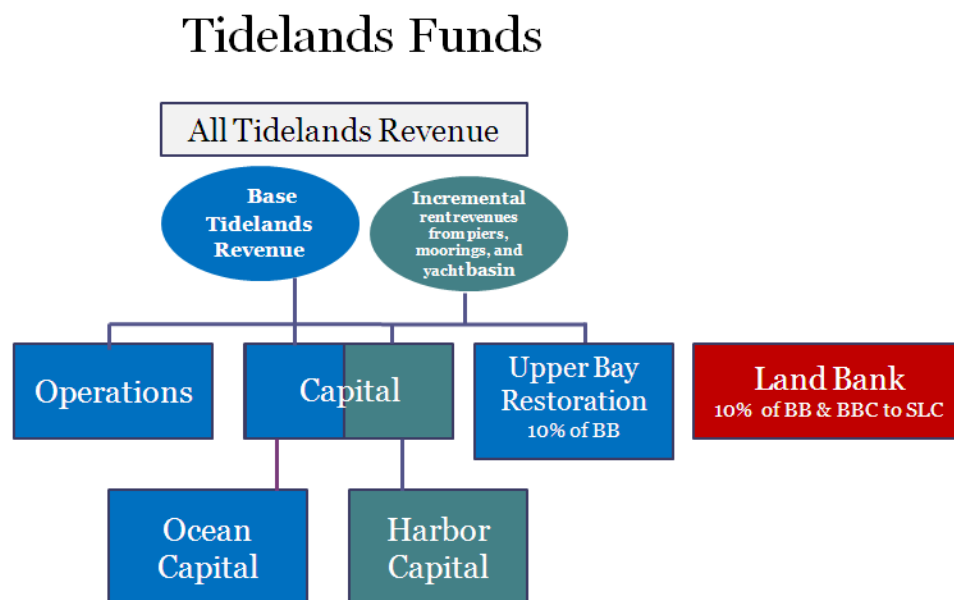
- Establishing, improving, and operating a public harbor.
- Establishing, maintaining, and operating wharves, docks, piers, slips, quays, ways, and streets, or utilities, to promote commerce, fishing, or navigation.
- Establishing, improving, and operating beaches, marinas, aquatic playgrounds, and similar recreational facilities open to the public.
- Preserving, maintaining, and enhancing tidelands in their natural state for use in scientific study, open space, and wildlife habitat.

The City has the power to regulate the use of Tidelands through leases, permits, policies, and ordinances that are consistent with the trust and relevant legislation.

## Fund Structure

Funds are accounting devices that the City uses to track and control resources intended for specific purposes. The Fund Financial Statements provide detailed information about the Tidelands funds but not the City as a whole. These funds are utilized to control and manage resources intended for purposes described in the Beacon Bay Bill.

The following illustration identifies the structure of the City's Tidelands funds and the allocation of revenue between those funds. Additionally, the City has some discretion on the use of Tidelands revenues within the operating and capital funds.



BB and BBC represents Beacon Bay and Balboa Bay Club respectively.

## Revenues

The Beacon Bay Bill requires the City to set up a separate Tidelands trust fund or funds, and mandates that the City deposit into these funds "all moneys received directly from, or indirectly attributable to..." the granted Tidelands in the City. This language is very broad and subject to interpretation. The City has determined that revenue from taxes, which are raised to support the general purposes of Government are attributable to the taxing authority, therefore these revenues are not attributable directly or indirectly to the Tide and Submerged Lands.

Revenue sources attributable to the Tidelands funds are determined by geographic location within the Tidelands and include \$13.1 million of revenue. The allocation may be based on specific locations, or on a percentage located within the Tidelands. For instance, several leases are split between the General fund and the Tidelands Operating fund based on the location of specific rental units, or based on the percentage of units located within the tidelands. Revenues attributable to the Tidelands are deposited and accounted for in the Tidelands funds, consistent with Gant and Trust requirements.

Additionally, the City has committed to using revenues generated by certain incremental increases in rental rates for moorings, piers, and leases over designated base years for Harbor related improvements. These revenues are placed in the Tidelands Harbor Capital fund. For the fiscal year ended June 30, 2013, \$925 thousand of revenue was moved from the Tidelands Operating fund to the Harbor Capital fund. This incremental increase consisted of \$209 thousand in increased revenues from Balboa Yacht Basin rentals of slips, apartments, and garages, \$686 thousand from onshore, offshore, and County managed moorings, and \$29 thousand from residential piers.

Of the total \$13.1 million in revenue attributable to both Tidelands funds, property income is the primary source. Property income is \$12.2 million, or 98% of projected fiscal year 2012-13 revenues, and is made up of \$5.6 million from leases, \$2.5 million from parking lots, \$2.3 million from the sale of oil, and \$1.8 million from rents for moorings, residential and commercial piers.

Lease revenues of \$5.6 million are made up as follows; 1) \$3 million from the Balboa Bay Club Lease. Revenues from the Balboa Bay Club are split, 90% to Tidelands operating fund and 10% to the State Lands Commission's Land Bank Fund. 2) \$946 thousand from Balboa Yacht Basin leases for slips, apartments, and garages. Balboa Yacht Basin revenues are split 53% to the General Fund and 47% to Tidelands based on % of area in the Tidelands. 3) \$862 thousand from the Beacon Bay lease. Beacon Bay lease revenues are split 80% to Tideland Harbor Capital Fund and/or the Tideland Operation Fund, 10% restricted within the Tidelands Operating fund for Upper Newport Bay Restoration, 10% deposited in the State Lands Commission's Land Bank Fund. Allocation of the 80% between the Tidelands funds is at the City's discretion. 4) the remaining \$826 thousand is derived from a variety of smaller leases.

Parking revenues of \$2.5 million are made up of \$1.4 million derived from the Balboa Parking Lot, \$735 thousand from the Ocean front Lot, and the remaining \$365 thousand from the Balboa Metered Lot, A and B Street Lots, and 19<sup>th</sup> Street Lot.

The City received \$2.3 million in revenues from the sale of oil. During fiscal year 2013, 24,487 barrels of oil were produced from 16 wells located in West Newport. The City has set aside a \$440,000 commitment of fund balance in the Tideland's Operating fund for future abandonment of these City oil wells.

Newport Beach is home to approximately 9,900 boats, 1,200 moorings, 2,300 commercial slips and side ties, and 870 residential piers, resulting in \$1.8 million in revenue from rentals, including \$1.4 million in revenue from off-shore, on-shore, and county managed moorings, \$147 thousand from residential piers, and \$232 thousand from commercial piers.

Additional revenue sources include; 1) licenses and permits of \$61 thousand, derived from pier transfer fees and live aboard permits, 2) \$172 thousand in charges for services, from marine preserve lecture fees, City Manager investigative fees, and Harbor debris clean-up fees, 3) \$2 thousand from fines and forfeitures for administrative fines, and abandoned vessels.

## **Expenditures**

Generally, the Beacon Bay Bill permits the City to use the revenues accruing from use of the Tidelands for the management, operation, and control of the lands or any improvements, betterments, or structures, as well as for any use that furthers the purposes of the trust.

Direct Costs Direct costs are those activities, programs, or functions whose primary purpose wholly or substantially benefit the Tidelands. These expenditures are charged directly to the activity, program, or function that benefits from them. There are currently three types of expenditures charged directly to the Tidelands funds; 1) Harbor Resources division operating costs including salaries, National Pollutant Discharge Elimination Systems (NPDES) administration, U. S. Clean Water Act, total maximum daily load (TMDL) administration, and annual regional general permitting for small dock maintenance dredging within Lower Newport Bay, and a portion of

Upper Newport Bay (RGP54 permit), 2) oil and gas generating activities, and 3) capital projects directly benefiting, or located within the Tidelands.

Indirect Costs City-wide costs that support all City activities, programs, and functions and are centrally budgeted, for example; 1) Public safety services provided City-wide, including Police, Fire, and Lifeguard services, 2) Public Works including Municipal Operations, 3) Community Services such as Parking, and 4) General government administrative services such as City Council, City Manager, City Clerk, City Attorney, Finance, and Human Resources activities.

The costs of these activities and other centralized services are considered indirect overhead as they support multiple activities, programs, or functions. The City uses an outside contractor, currently MGT of America Inc. (MGT) to develop the indirect cost allocation plan that identifies and distributes these indirect costs to all operating programs and functions within the City's organizational structure.

The cost allocation plan takes a detailed approach to analyzing the costs attributable to Tidelands Operations. MGT interviewed staff in each department and analyzed data within each central activity to determine: 1) what indirect support functions are provided (e.g. the number of employees in a department for payroll, or the number of agenda items per department for City Clerk functions). 2) how to allocate centrally budgeted personnel and other operating expenses into these functions. 3) which departments receive benefits from these services (e.g. payroll services benefit all departments that have budgeted staff, such as Harbor resources, Police, and Fire, and public meeting notices benefit all departments with items on the meeting agenda). 4) how to identify the best method of allocating these costs to the users (e.g. accounts payable services are allocated based on the number of transactions by department).

The result of this analysis is the allocation of indirect costs to all departments and programs. These departments also have administrative costs that are allocated to their various operations or programs, using similar methodologies.

Indirect costs are added to direct costs to determine the full cost of an operating department, activity, or program. In the case of the Tidelands, a share of the full cost of all operating departments providing services to the Tidelands are allocated, using the best methodologies identified by MGT.

#### **Advances and the General Fund Subsidy**

In fiscal year 2008-09 the City had an opportunity to undertake a large and complex maintenance dredging project, within Newport Bay for the first time in seventy years. In order to complete this project City Council approved loans from the General fund to the Tidelands Harbor Capital fund. During fiscal year 2011-12 and 2012-13 much of the dredging was performed and the general fund made loan advances to the Tidelands Harbor Capital fund to cover the costs. These advances are non-interest bearing, and are expected to be paid back to the General fund from incremental revenues allocated to the Harbor Capital fund, over a period of 15 to 30 years. The balance of advance due to the general fund as of June 30, 2013 is \$9.7 million.

Historically, Tidelands do not generate sufficient revenue to cover the full cost of operations. Due to the ongoing gap between revenues and expenditures, the City's General Fund transfers money to subsidize the operations of the Tidelands, on an annual basis. As Tidelands revenues and expenditures fluctuate year to year, the General fund subsidy also fluctuates.

**CITY OF NEWPORT BEACH**  
**Tide and Submerged Lands**  
**Annual Financial Statement**  
**Projected For the Fiscal Year Ended June 30, 2013**  
**UNAUDITED**

	Tide and Submerged Land Operating	Tide and Submerged Land Harbor Capital	
<b>Assets</b>			
Cash and investments	\$ 1,597,942	\$ 306,355	\$ 1,904,297
Receivables:			-
Accounts	1,432,647	-	1,432,647.00
Intergovernmental receivables	-	601,413	601,413
<b>Total assets</b>	<b>\$ 3,030,589</b>	<b>\$ 907,768</b>	<b>\$ 3,938,357</b>
<b>Liabilities and Fund Balances</b>			
<b>Liabilities:</b>			
Accounts payable	\$ 845,266	\$ 41,780	\$ 887,046
Deposits payable	113,068	-	113,068.00
Unavailable revenue	-	601,413	601,413
Advance from other funds (note 2)	-	9,676,659	9,676,659
<b>Total liabilities</b>	<b>\$ 958,334</b>	<b>\$ 10,319,852</b>	<b>\$ 11,278,186</b>
<b>Fund balances (deficit):</b>			
Nonspendable:	-	-	-
Restricted:			-
Upper Newport Bay Restoration	324,635	-	324,635
Capital Reappropriation	1,015,000	-	1,015,000
Committed:			-
Oil and Gas Liabilities	440,000	-	440,000
Encumbrance Reserve	292,620	-	292,620
Assigned:	-	-	-
Unassigned:	-	(9,412,084)	(9,412,084)
<b>Total fund balances (deficit)</b>	<b>2,072,255</b>	<b>(9,412,084)</b>	<b>(7,339,829)</b>
<b>Total liabilities and and fund balances</b>	<b>\$ 3,030,589</b>	<b>\$ 907,768</b>	<b>\$ 3,938,357</b>

**CITY OF NEWPORT BEACH**  
**Tide and Submerged Lands**  
**Statement of Revenues, Expenditures, and Changes in Fund Balance**  
**Projected For the Fiscal Year Ended June 30, 2013**  
**UNAUDITED**

<b>Revenues</b>	<b>Tide and Submerged Land Operating</b>	<b>Tide and Submerged Land Harbor Capital</b>	<b>Tide and Submerged Land Total Funds</b>
Licenses and permits	\$ 60,923	\$ -	\$ 60,923
Charges for services	171,582	-	171,582
Fines and forfeitures	2,115	-	2,115
Investment income (loss)	(11,945)	-	(11,945)
Income from the use of property and money			
Parking			
Balboa Lot	1,391,410	-	1,391,410
Other Parking	1,140,313	-	1,140,313
Leases			
Balboa Yacht Basin Slips (net of increment)	653,171	179,886	833,057
Balboa Yacht Basin Garages (net of increment)	55,253	24,627	79,880
Balboa Yacht Basin Apartments (net of increment)	10,547	4,718	15,265
Balboa Yacht Basin Electric	18,267	-	18,267
Balboa Bay Club	3,011,162	-	3,011,162
Beacon Bay	862,328	-	862,328
Other Leases	825,698	-	825,698
Rent			
Moorings Off-Shore (net of increment)	649,814	58,497	708,311
Moorings On-Shore (net of increment)	69,547	524,471	594,018
Moorings Guest (net of increment)	-	102,977	102,977
Residential Piers Rent (net of increment)	117,800	29,332	147,132
Commercial Piers Rent (net of increment)			
Large Com Marina Rent	180,671	-	180,671
Small Com Marina Rent	15,732	-	15,732
Vessel Charter Bus Rent	9,745	-	9,745
Vessel Rental Facility Rent	7,874	-	7,874
HOA >15,000 sqf Rent	644	-	644
Yacht Club Guest Slip Rent	4,144	-	4,144
Restaurant Rent	3,039	-	3,039
Shipyard Rent	2,512	-	2,512
Other Rent - City Tld (Harbor Marina)	2,039	-	2,039
Other Rent - Bldg over Tld	1,979	-	1,979
Fuel Dock - Base/Plus Rent	1,804	-	1,804
Sport Fishing Charter Rent	1,703	-	1,703
Sale of Oil	2,274,409	-	2,274,409
Total Income from the use of property and money	11,311,605	924,508	12,236,113
Contributions	-	643,081	643,081
Other	7	-	7
<b>Total Revenues</b>	<b>11,534,287</b>	<b>1,567,589</b>	<b>13,101,876</b>



**CITY OF NEWPORT BEACH**  
**Tide and Submerged Lands**  
**Statement of Revenues, Expenditures, and Changes in Fund Balance**  
**Projected For the Fiscal Year Ended June 30, 2013**  
**UNAUDITED**

Continued

	Tide and Submerged Land Operating	Tide and Submerged Land Harbor Capital	Tide and Submerged Land Total Funds
<b>Expenditures</b>			
General government:			
City council - Indirect	\$ 4,746	\$ -	\$ 4,746.0
City clerk - Indirect	17,541	-	17,541
City attorney - Indirect	69,940	-	69,940
City manager - Indirect	87,156	-	87,156
Finance - Indirect	48,018	-	48,018
Human resources - Indirect	8,635	-	8,635
Building Use - Indirect	120,000	-	120,000
Total General government	<u>356,036</u>	<u>-</u>	<u>356,036</u>
Public safety:			
Police - Indirect	2,076,860	-	2,076,860
Fire - Indirect	1,779,256	-	1,779,256
Marine safety - Indirect	3,703,407	-	3,703,407
Total Public safety	<u>7,559,523</u>	<u>-</u>	<u>7,559,523</u>
Public works:			
Public works - Indirect	369,258	-	369,258
Utilities Oil and Gas - Direct	881,528	-	881,528
MOD- General services Indirect	2,158,030	-	2,158,030
Total Public works	<u>3,408,816</u>	<u>-</u>	<u>3,408,816</u>
Community services:			
Harbor resources - Direct	1,683,892	-	1,683,892
Parking operations - Indirect	722,595	-	722,595
Library services N/A	-	-	-
Recreation and senior services N/A	-	-	-
Total Community services	<u>2,406,487</u>	<u>-</u>	<u>2,406,487</u>
Capital improvement projects: - All are Direct			
BYB facilities improvement	58,850	-	58,850
Eel grass mitigation bank	8,037	-	8,037
19th St Tidegate Retrofit	85,453	-	85,453
Tidegate retrofit	147,655	-	147,655
Newport Harbor dredging permit RPG54	156,613	-	156,613
Lower Harbor Dredging	-	3,919,576	3,919,576
Rhine channel dredging	-	124,531	124,531
Bulkhd Repairs Sealing and Groin rehab	86,466	55,863	142,329
Balboa marina public parking	1,448	-	1,448
Eel grass mapping	21,579	-	21,579
Eel grass survey	26,163	-	26,163
Vessel waste pump out station	14,935	-	14,935
Bay beach sand mgmt	34,186	-	34,186
Total Capital improvement projects	<u>641,385</u>	<u>4,099,970</u>	<u>4,741,355</u>
<b>Total Expenditures</b>	<u><b>14,372,247</b></u>	<u><b>4,099,970</b></u>	<u><b>18,472,217</b></u>
Other financing sources (uses)			
Transfers in	3,220,047	-	3,220,047
Transfers out	-	-	-
<b>Total other financing sources (uses)</b>	<u><b>3,220,047</b></u>	<u><b>-</b></u>	<u><b>3,220,047</b></u>
<b>Net change in fund balance</b>	<u><b>382,087</b></u>	<u><b>(2,532,381)</b></u>	<u><b>(2,150,294)</b></u>
<b>Fund balance, beginning</b>	<u><b>1,690,168</b></u>	<u><b>(6,879,703)</b></u>	<u><b>(5,189,535)</b></u>
<b>Fund balance, ending</b>	<u><b>\$ 2,072,255</b></u>	<u><b>\$ (9,412,084)</b></u>	<u><b>\$ (7,339,829)</b></u>



## NOTES

### 1. Basis of Accounting and Measurement Focus

The basic financial statements of the Newport Beach CA Tide and Submerged Lands are comprised of fund financial statements, and Notes to the financial statements.

The Fund Financial Statements utilize the financial resources measurement focus and thus have a short-term focus measuring inflows of current spendable assets. The resulting net difference between current financial assets and current financial liabilities otherwise known as fund balance (or net working capital in the private sector) is a measure of the Tidelands ability to finance activities in the near term.

Tidelands are accounted for in two Special Revenue fund types. These Special Revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for the Tide and Submerged Lands.

These funds are presented using the *modified accrual basis of accounting*. Their revenues are recognized when they become measureable and available as net current assets. *Measurable* means that the amounts can be estimated, or otherwise determined. *Available* means that the amounts were collected during the reporting period or soon enough thereafter to be available to finance the expenditures accrued for the reporting period. The City uses an availability period of 60 days for all revenues in the Tidelands fund.

### 2. Advances

Advances from the General fund to the Tide and Submerged Land – Harbor Capital fund are primarily for the purpose of funding expenditures for dredging and other high impact projects within the City's tidelands, specifically within, or benefitting the Newport Harbor.

	<u>Advance from</u>	<u>Advance To</u>
General Fund	\$ 9,676,659	\$ -
Tide and Submerged Land Harbor Capital Fund	-	9,676,659
Total	<u>\$ 9,676,659</u>	<u>\$ 9,676,659</u>

The advances will be paid back to the General fund from incremental revenue increases generated from certain leases, mooring rents, and commercial and residential pier rents. Below is the proposed repayment schedule:

<b>Proposed Repayment Terms (Zero Interest Advance)</b>	
<u>Fiscal Year</u>	<u>Repayment</u>
2015	\$ 500,000
2016	500,000
2017	750,000
2018	750,000
2019	1,000,000
2020	1,000,000
2021	1,250,000
2022	1,250,000
2023	1,250,000
2024	1,426,659
<b>Total</b>	<u><b>\$ 9,676,659</b></u>